

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 8, 2005

DIVISION ONE

B162690 Janine E. Myers (Not for Publication)
v.
Williams Myers, Jr.

We affirm the trial court's finding that all the Flextronics stock is community property. We reverse the trial court's finding that husband breached his duty to wife by collaring the Flextronics stock, and its resulting distribution of that stock and imposition of various penalties related to that stock. We remand for the trial court to enter a new order dividing the Flextronics stock equally between the parties, with each party accepting whatever tax consequences flow there from. If the stock already has been sold, the court should allocate the resulting funds equally between the parties, each to bear the resulting tax consequences. We reverse the trial court's orders establishing child and spousal support and allocating attorney fees. We remand for the trial court to reconsider those orders in light of the parties' changed financial circumstances, and exercise its discretion in entering modified child and spousal support and attorney fees allocation orders. In all other respects, we affirm the judgment. Each party shall bear its own costs and fees on appeal.

Suzukawa, J. (Assigned)

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION ONE (Continued)

B170108 Ronald Mayberry (Not for Publication)

v.

City of Los Angeles

The judgment is affirmed.

Mallano, J.

We concur: Spencer, P.J.
 Suzukawa, J. (Assigned)

B177588 Banc of America Investment Services, Inc. et al. (Not for Publication)

v.

Superior Court, Los Angeles County

(Bernheim, r.p.i.)

Let a peremptory writ of mandate issue, commanding respondent court to:
(1) vacate its order denying Bank of America Corporation, Banc of America Capital Management LLC, and Banc of America Investment Services, Inc.'s motion to compel arbitration before the National Association of Securities Dealers, Inc.; (2) vacate its order granting Steven J. Bernheim's request to compel arbitration before Judicial Arbitration and Mediation Services; and (3) enter a new order granting the motion of Bank of America Corporation, Banc of America Capital Management LLC, and Banc of America Investment Services, Inc., to compel arbitration before the National Association of Securities Dealers, Inc. The parties are to bear their own costs in connection with this proceeding.

Mallano, J.

We concur: Spencer, P.J.
 Suzukawa, J. (Assigned)

March 08, 2005 (Continued)

DIVISION ONE (Continued)

B171171 People (Not for Publication)

$$\mathbf{V}_i$$

Dexter L. Haynes

The judgment is affirmed.

Mallano, J.

I concur: Spencer, P.J.

I concur in the judgment only: Vogel (Miriam A.), J.

DIVISION TWO

B169352 People (Not for Publication)

$$\mathbf{V}_i$$

Izaguirre

The judgment is modified to impose and stay the 10-year enhancements under section 12022.53, subdivision (b) on counts 1 through 4, to impose and stay the 20-year enhancements under section 12022.53, subdivision (c) on counts 1 and 2, to strike the enhancement allegations under section 12022.55 on counts 1 and 2, and to strike the enhancement allegation under section 12022.7 on count 2. In all other respects, the judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect the award of 549 days of presentence custody credit.

Doi Todd, J.

We concur: Boren, P.J.

Ashmann-Gerst, J.

DIVISION THREE

Court convened at 9:30 a.m. at Loyola Law School

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

DIVISION THREE (Continued)

Each of the following:

B177345 Children and Family Services v. Ericka M.
B173431 In Re Conservatorship of Elzie B. v. Public Guardian

Argument waived, cause submitted.

B173165 Shah Premchand dba Sumaria Gems
 v.
 Mohammed

Merits:

Argued by David Cowan for appellant and by Gregson Perry for respondent. Cause submitted.

B177446 Yellin, et al.
 v.
 Interinsurance Exchange of the Automobile Club

Merits:

Argued by Jeremy J. Osher for appellants and by Maxine Lebowitz for respondent. Cause submitted.

B169333 Honey
 v.
 Schaumann

Merits:

Argued by Nolan Clark for appellant and by Einar Wm. Johnson for respondent. Cause submitted.

DIVISION THREE (Continued)

B179503 21st Century Insurance Company
 v.
 S.C.L.A.
 Schwartz, et al.

Merits:

Argued by Kent R. Keller for petitioner and by Bernie Bernheim for real parties in interest. Cause submitted.

Court recessed at 12:00 Noon

Court reconvened at 1:30 p.m. at Loyola Law School

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B180017 LaVern W. v. S.C.L.A.
B174798 People v. Rafael M.
B177921 Children and Family Services v. Raylyn C.
B176531 Children and Family Services v. Sheila E.
B175095 People v. James A.
B175588 People v. Lopez

Argument waived, cause submitted.

B172813 Glasco
 v.
 Specialty Laboratories, Inc.

Merits:

Argued by Gwen Freeman for appellant and by Jeffrey A. Wortman for respondent. Cause submitted.

DIVISION THREE (Continued)

B175065 South Central Farmers Feeding Families
v.
Libaw-Horowitz Investment Company, et al.

Merits:

Argued by Mark Borenstein and Kenneth F. Mattfeld, deputy city attorney for appellants and by Patrick Dunlevy for respondent. Cause submitted.

Court adjourned at 3:30 p.m.

B175889 People (Not for Publication)
v.
Nino Tomas

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B178810 People (Not for Publication)
v.
Carlos Leonard Smith

The judgment is affirmed.

Klein, P.J.

We concur: Kitching, J.
 Aldrich, J.

March 08, 2005 (Continued)

DIVISION FOUR

3-8-05

126015-05

The **HONORABLE ELIZABETH A. GRIMES**, Judge of the Superior Court of California, County of Los Angeles, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division **FOUR**, as a justice thereof, on the following dates:

March 10, 2005 To March 11, 2005

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: February 25, 2005

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

B174228 People (Not for Publication)
v.
Burris

The judgment is affirmed.

Grimes, J. (Assigned)

We concur: Epstein, P.J.
Hastings, J.

March 08, 2005 (Continued)

DIVISION FOUR (Continued)

B162751 Artisan Entertainment, Inc. (Not for Publication)
v.
Castravelli

The judgment is affirmed. Costs on appeal are awarded to respondent.

Hastings, J.

We concur: Epstein, P.J.
Curry, J.

B174228 People (Not for Publication)
v.
Burris

The judgment is affirmed.

Grimes, J. (Assigned)

We concur: Epstein, P.J.
Hastings, J.

DIVISION FIVE

B171968 In re Marriage (Not for Publication)
of
Reiff

That portion of the September 23, 2003 order awarding Michael attorney's fees of \$2,500 is reversed. The judgment and postjudgment orders are otherwise affirmed. The parties are to bear their own costs on appeal.

Kriegler, J. (Assigned)

We concur: Armstrong, Acting P.J.
 Mosk, J.

DIVISION FIVE (Continued)

B176103 The People (Not for Publication)

$$\mathbf{V}_i$$

Jonathan T.

In re Jonathan T., A Person Coming Under the Juvenile Court Law

The minute order for the dispositional hearing is modified to remove the condition in the judgment that minor refrain from associating with "anyone disapproved by" his parents or probation officer. In all other respects, the judgment is affirmed.

Mosk, J.

We concur: Armstrong, Acting P.J.
 Kriegler, J. (Assigned)

B170364 Mitchell, etc., et al. (Certified for Publication)

V.

United National Insurance Company

The judgment is affirmed. United National is awarded its costs on appeal.

Mosk, J.

We concur: Turner, P.J.
Armstrong, J.

B174715 People (Not for Publication)

V.

Martin P.

In re Martin P., A Person Coming Under the Juvenile Court Law

The order of the Superior Court is affirmed.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B174573 Gloria Leon (Not for Publication)
 v.
 Budget Rent-A-Car

The judgment is affirmed. The parties to bear their own costs on appeal.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

B173741 People (Not for Publication)
 v.
 Lennie J.

Term No. 43, concerning probation conditions, is ordered stricken from the January 27, 2004 minute order. Confinement time on the robbery and assault convictions is ordered stayed pursuant to section 654. Appellant's total confinement time is now 19 years, 2 months. The juvenile court's orders are affirmed in all other respects.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

B168775 Law Offices of James E. Blancarte (Not for Publication)
 v.
 Steve Werner et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
 Kriegler, J. (Assigned)

March 08, 2005 (Continued)

DIVISION FIVE (Continued)

B175937 People (Not for Publication)
v.
Valentino

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION SIX

B174555 People (Not for Publication)
v.
Roth

The judgment is modified and the abstract of judgment shall be amended as follows: (1) the LWOP sentence on the first degree murder conviction is modified to a sentence of 25 years to life; (2) the 10-year gang enhancement is stricken, and the amended abstract shall instead reflect a 15-year minimum parole eligibility date under section 186.22, subdivision (b) (5) ;(3) the abstract shall reflect that appellant was awarded 853 days in presentence credits under section 4019. A copy of the amended abstract shall be forwarded to the Department of Corrections. As so modified, the judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

March 08, 2005 (Continued)

DIVISION SIX (Continued)

B176695 People (Not for Publication)
v.
Velasquez

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
 Yegan, J.

B173596 Tompkins (Not for Publication)
v.
Pacifica Companies

The judgment is affirmed. Respondent shall recover her costs on appeal.

Perren, J.

We concur: Gilbert, P.J.
Yegan, J.

B166909 People (Not for Publication)
v.
Cortez

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

DIVISION SIX (Continued)

B170673 People
 v.
 Bridges

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

DIVISION SEVEN

B172824 H.K. Supermarket, Inc. (Not for Publication)
 v.
 Magteec Investment Co.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.
 Johnson, J.

DIVISION EIGHT

B180195 McEvetty
 v.
 McGowan

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed December 20, 2004) dismissed.

B168097 People
 v.
 Golt

Filed order denying petition for rehearing.